IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 25286 of 2004

Between:

P. Pedda Obulappa, S/o Obulappa,
Kurumala (V), Nallamada (M), Anantapur District.

..... PETITIONER

AND

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Penukonda, Anantapur District.
3 The Mandal Revenue Officer, Nallamada, Anantapur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of Writ of Certiorari call for the records relating to suspension-cum-shoe cause notice in RC.No. 1067/04, dated 13-7-2004 issued by the Revenue Divisional Officer, Penukonda, Ananthapur District, suspending the Petitioner's Fair Price Shop authorisation and to quash the same as illegal, arbitrary and unjust and consequently to direct the respondents to continue the petitioner as Fair Price Shop dealer of Kurumala (V), Nallamada (M), Ananthapur District and pass such other necessary order or orders.

Counsel for the Petitioner:MR.I.GOPAL REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is a fair price shop dealer of Kurumala Village, Nallamada Mandal, Anantapur District. His authorization was suspended by the 2nd respondent through a show cause notice-cum-suspension order, dated 13.07.2004. Petitioner submitted his explanation and preferred an appeal before the 1st respondent, feeling aggrieved by the order of suspension. He also filed an application for stay. An order, dated 05.08.2004, issued from the office of District Collector was served upon the petitioner. In the said order, the 2nd respondent was directed to give reasonable opportunity to the petitioner and dispose of the case. The grievance of the petitioner is that the 1st respondent did not apply his mind to the facts of the case, and though nearly six months have elapsed, the 2nd respondent did not conclude the proceedings.

Aggrieved by the order of suspension, petitioner availed the remedy of appeal before the 1st respondent. The appeal was dealt with by the District Collector. It is rather curious and surprising that the appellate authority proceeded as though the grievance of the petitioner was only about an opportunity to be given by the 2nd respondent. The relief claimed by the petitioner in the appeal reads as under:

> "Set aside the proceedings of Revenue Divisional Officer, Penukonda in Rc.1067 of 2004, dated 13.07.2004, with a direction to provide reasonable

opportunity to the appellant in defending his case"

While disposing of the appeal, the appellate authority in its order, dated 05.08.2004, passed the following order:

> "In the reference 2nd cited, Sri Harijana Pedda Obulappa, S/o.Obulappa, F.P. Shop dealer, Kurumala Village in Nallamada Mandal has filed a petition through his counsel Sri N.C.Sampath Kumar, Anantapur, against the orders of the Revenue Divisional Officer, Penukonda, passed in the reference 1st cited. The petitioner has requested to provide reasonable opportunity to him. The Joint Collector has pleased to consider the request of the petitioner.
>
> Therefore, the Revenue Divisional officer, Penukonda, is requested to give a reasonable opportunity to the petitioner for filing of explanation and to hear the case and dispose of the case."

This discloses the callousness and lack of seriousness on the part of the appellate authority. The appeal was filed before the Joint Collector. The order is issued in the name of the District Collector. It is singed by one Mr.P.K.Prabhakar, for Collector (CS). The top of the district administration on the revenue side have made a mess of it. In fact, this reflects sadly on their way of functioning.

Be that as it may, the 2nd respondent received the explanation from the petitioner almost more than five months back. There did not exist any impediment for him to finalise the proceedings at least since 05.08.2004. He was very enthusiastic in suspending the authorization of the petitioner even while issuing a show cause notice. He virtually slept thereafter, and did not evince any interest. This Court does not countenance such arbitrary approach on the part of the 2nd respondent. In ***THE JOINT COLLECTOR Vs. A.NEELIMA,*** this Court held that suspension of authorization for a period beyond 90 days, cannot be countenanced, except where the delay is attributable to the dealer. In the present case, the delay in disposal of the matter is solely attributable to the 2nd respondent.

For the foregoing reasons, the writ petition is allowed and the order of suspension,

dated 13.07.2004, is set aside, and the petitioner shall be entitled to function as dealer. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 15.02.2005

Note: Furnish copy

in three days

(B/o)

Ts

To

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Penukonda, Anantapur District.
3 The Mandal Revenue Officer, Nallamada, Anantapur District.

4 2 CCs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad. (OUT)

5 2CD copies.